

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,
Plaintiff,

v.

TIMOTHY HERLIHY,
Defendant.

Crim. No. 04-CR-10167 RCL

**DEFENDANT'S MOTION FOR AUTHORIZATION
TO OBTAIN TRANSCRIPT OF TESTIMONY OF ADAM ELLARD**

Now comes the Defendant, Timothy Herlihy, and pursuant to the Criminal Justice Act, moves this Court for authorization to obtain the transcript of the testimony of Adam Ellard, given in the trial of Troy Brewer, on May 26, 2005.

As grounds therefore, the Defendant says:

1. He has been deemed indigent by the Probation Department and is proceeding with appointed counsel pursuant to the Criminal Justice Act.
2. Troy Brewer and Adam Ellard are both co-Defendants. Pursuant to a cooperation agreement, Ellard testified at the trial of Brewer on May 26, 2005.
3. During his testimony, Ellard testified to alleged prior deals involving Timothy Herlihy, testimony the government claims is relevant for sentencing purposes as to Herlihy.
4. A transcript of Ellard's testimony is reasonable and necessary to effectively represent the Defendant Herlihy at sentencing.

WHEREFORE, the Defendant prays his motion be allowed.

TIMOTHY HERLIHY
by his attorneys,

Date: 5/31/05

/s/Matthew A. Kamholtz
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was this day served upon all counsel of record, via electronic mail.

Date: 5/31/05

/s/Matthew A. Kamholtz
Matthew A. Kamholtz